IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

(1) CRIMINAL APPEAL NO.133 OF 2004
IN
MISC.APPLICATION NO.182 OF 2003
IN
CR.NO.128 OF 1999

Smt.Gorwaramma D/o S.
Bhat ..Appellant

Vs.

State of Maharashtra & Ors. ..Respondents

...

Mr.J.S.Kini for appellant
Mr.V.B.Konde-Deshmukh A.P.P. for State

...

WITH

(2) CRIMINAL APPEAL NO. 134 OF 2004
IN
MISC.APPLICATION NO.183 OF 2003
IN
CR.NO.128 OF 1999

Shri.P.Ishwar
Bhatt ..Appellant

Vs.

State of Maharashtra & Ors. ..Respondents

...

Mr.J.S.Kini for appellant
Mr.V.B.Konde-Deshmukh A.P.P. for State

...

WITH

(3) CRIMINAL APPEAL NO. 135 OF 2004
IN
MISC.APPLICATION NO.184 OF 2003
IN
CR.NO.128 OF 1999

Parvati Amma ..Appellant

Vs.

State of Maharashtra & Ors. ..Respondents

...

Mr.J.S.Kini for appellant
Mr.V.B.Konde-Deshmukh A.P.P. for State

...

WITH
(4) CRIMINAL APPEAL NO. 136 OF 2004
IN
MISC.APPLICATION NO.185 OF 2003
IN
CR.NO.128 OF 1999

Smt.Saya Mookambika
Amma ..Appellant

Vs.

State of Maharashtra & Ors. ..Respondents

...

Mr.J.S.Kini for appellant
Mr.S.S.Pednekar, A.P.P. for State

...

WITH
(5) CRIMINAL APPEAL NO. 137 OF 2004
IN
MISC.APPLICATION NO.186 OF 2003
IN
CR.NO.128 OF 1999

Smt.Draupadi
Amma ..Appellant

Vs.

State of Maharashtra & Ors. ..Respondents

...

Mr.J.S.Kini for appellant
Mr.S.S.Pednekar, A.P.P. for State

...

CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : JUNE 8, 2005

P.C.

1. Heard the learned advocate for the appellants.

2. The appellants have preferred these appeals under M.P.I.D.Act. The lands claimed by the appellants came to be attached. The appellants challenged the said orders of attachment. The learned Special Judge by order dated 11-9-2003 rejected the applications preferred by the present appellants. One of the main reasons for rejecting the said applications was that the lands were pointed by the accused to the police and panchnamas of the lands came to be drawn by the police. The panchnamas show that there was extensive plantation of trees like Sag, Mengium etc. on the said lands and the Sag trees had grown to the extent of 20 to 25 feet whereas other trees had grown to the extent of 30 to 40 feet. The learned Special Judge also relied on the statement of the accused giving all details of the lands and how the lands were used for plantation. The statement shows that these trees were planted on the lands and the learned Special Judge observed that the trees were planted by the accused from the money which came to be collected by the accused from the investors. At the time of hearing of the said application, the present appellants disputed that any such trees were planted on the said lands. However, the learned Special Judge was of the opinion that it was the matter of evidence and hence, he rejected

the applications for cancelling the attachment of the said property.

3. After the applications came to be rejected the appellants have preferred present appeals before this Court. The Court Commissioner came to be appointed by this Court and the report of the Court Commissioner and the photographs clearly show that there is no plantation of any nature on the said lands in question. In view of the report of the Court Commissioner, in my opinion, it would be appropriate that the order of the learned Special Judge dated 11.9.2003 is set aside. Thus, the order of the learned Special Judge is set aside and the learned Special Judge shall consider the earlier application of the appellants for setting aside attachment of the property afresh and decide the same after taking into consideration the report of the Court Commissioner dated 18.2.2005. The said applications to be disposed of as expeditiously as possible.

4. All the five appeals are disposed of accordingly.

[V.K.TAHILRAMANI,J]